

**FILED**

AUG 27 2008

Clerk, U.S. District and  
Bankruptcy Courts

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Derwin S. Pope,

Petitioner,

v.

United States of America, *et al.*,

Respondents.

Civil Action No. **08 1492**

MEMORANDUM OPINION

This matter is before the Court on petitioner's application for a writ of *habeas corpus* and his application to proceed *in forma pauperis*. The Court will grant the application to proceed *in forma pauperis* and dismiss the case for lack of jurisdiction.

Petitioner challenges his conviction entered by the United States District Court for the Eastern District of North Carolina following a plea of guilty. He claims that "the district court ignored colorable actual innocence claims." Pet. at 5. Such claims must be presented to the sentencing court by motion filed pursuant to 28 U.S.C. § 2255.<sup>1</sup> *See Ojo v. Immigration & Naturalization Service*, 106 F.3d 680, 683 (5<sup>th</sup> Cir. 1997) (the sentencing court is the only court with jurisdiction to hear defendant's complaint regarding errors that occurred before or during sentencing).

An individual may be excused from pursuing relief under § 2255 only when it "appears that the remedy by motion is inadequate or ineffective to test the legality of his detention." 28

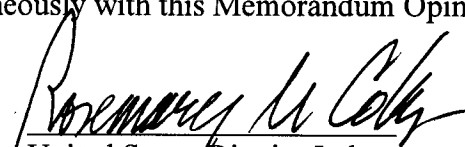
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<sup>1</sup> Petitioner states that he filed a petition in the sentencing court under 28 U.S.C. § 2254, Pet. at 3, but that provision applies to state court judgments.

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2

U.S.C. § 2255. Petitioner has made no such showing here. The Court therefore will dismiss the case by separate Order issued contemporaneously with this Memorandum Opinion.

  
United States District Judge

Date: August 10, 2008